

THE HONORABLE TANA LIN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WILLIAM MCNAE and RONDA MCNAE,

Plaintiffs,

v.

ARAG INSURANCE COMPANY,

Defendant.

Case No. 2:24-cv-00211-TL

DECLARATION OF MICHAEL  
MULLALY IN SUPPORT OF ARAG  
INSURANCE COMPANY'S  
OPPOSITION TO PLAINTIFFS'  
MOTION TO STAY

I, Michael Mullaly, declare that the following statements are true and correct under penalty of perjury under the laws of the United States of America:

1. I am counsel for ARAG Insurance Company ("ARAG"), admitted pro hac vice in this matter. I am of legal age, am competent to testify, and have personal knowledge of the matters herein.

2. Attached hereto as **Exhibit 1** is a true and correct copy of that certain Confidential Settlement Agreement between Michael J. Fitzgerald, Ronda McNae, and Will McNae dated June 15, 2020, as filed as Exhibit A to the Amended Complaint in the lawsuit captioned *Fitzgerald and de Varona v. McNae*, Case No. 1:22-cv-22171-JEM in the U.S. District Court for the Southern District of Florida (the "Federal Lawsuit").

1           3.       Attached hereto as **Exhibit 2** is a true and correct copy of the Amended  
2 Complaint, filed on December 30, 2022 as Document 27 in the Federal Lawsuit, without  
3 exhibits.

4           4.       Attached hereto as **Exhibit 3** is a true and correct copy of the Complaint, filed  
5 on July 14, 2022 as Document 1 in the Federal Lawsuit.

6           5.       Attached hereto as **Exhibit 4** is a true and correct copy of the Amended Order  
7 on Motion to Dismiss Amended Complaint, entered on October 24, 2023 in the Federal  
8 Lawsuit.

9           6.       Attached hereto as **Exhibit 5** is a true and correct copy of the Complaint filed in  
10 in the lawsuit captioned *Fitzgerald v. McNae*, Case No. 2023-025855-CA-01 in Miami-Dade  
11 County Circuit Court (the “State Lawsuit”).

12           7.       Attached hereto as **Exhibit 6** is a true and correct copy of Attorney Gomez’s  
13 Entry of Appearance, filed on April 5, 2024 as Document 161 in the Federal Lawsuit.

14           8.       Attached hereto as **Exhibit 7** is a true and correct copy of Objection to Motion  
15 to Withdraw and Request for Hearing Via Zoom, filed on September 25, 2024 as Document  
16 209 in the Federal Lawsuit.

17           9.       Attached hereto as **Exhibit 8** is a true and correct copy of Attorney Gomez’s  
18 Motion to Withdraw, filed on September 24, 2024 as Document No. 207 in the Federal Lawsuit.

19           10.      Attached hereto as **Exhibit 9** is a true and correct copy of attorney Gomez’s  
20 Reply to Ronda McNae’s Objection to Motion to Withdraw, filed on September 27, 2024 as  
21 Document 213 in the Federal Lawsuit.

22           11.      Attached hereto as **Exhibit 10** is a true and correct copy of the Order Granting  
23 Motion to Withdraw as Counsel, entered on October 2, 2024 as Document 216 in the Federal  
24 Lawsuit.

1           12. Attached hereto as **Exhibit 11** is a true and correct copy of Nichelle Womble's  
2 Notice of Appearance and Designation of Email Addresses, filed on February 10, 2025 as  
3 Document 291 in the Federal Lawsuit.

4           13. Attached hereto as **Exhibit 12** is a true and correct copy of ARAG's August 26,  
5 2024 discovery requests to Ronda McNae in the above-captioned lawsuit. To date, Ms. McNae  
6 has not served objections or written responses to these requests, or produced documents.

7           14. Attached hereto as **Exhibit 13** is a true and correct copy of ARAG's August 26,  
8 2024 discovery requests to Will McNae in the above-captioned lawsuit. To date, Mr. McNae  
9 has not served objections or written responses to these requests, or produced documents.

10           15. Attached hereto as **Exhibit 14** is a true and correct copy of an email chain  
11 between me and the McNaes' former counsel, David Faddoul (copying others) from September  
12 16-23, 2024.

13           16. I, on behalf of ARAG, agreed to several extensions of the McNaes' deadline to  
14 respond to the discovery requests attached as **Exhibits 12** and **13** above, culminating in a  
15 response date of January 27, 2025. To date, counsel for ARAG have not received written  
16 objections, responses, or any production of documents in response to these requests.

17           17. Attached hereto as **Exhibit 15** is a true and correct copy of an email chain  
18 between Ms. McNae and me (copying Mr. McNae) dated February 11-14, 2025. One email  
19 from Ms. McNae included an attachment, which related to the structure of a settlement  
20 proposal, and has therefore been omitted as irrelevant to this motion.

21           18. Attached hereto as **Exhibit 16** is a true and correct copy of Plaintiffs' Response  
22 in Opposition to Defendant Ronda McNae's Motion to Sanction Opposing Counsel and Mrs.  
23 Yeleny de Varona, filed on February 27, 2024 as Document 154 in the Federal Lawsuit.

1           19. Attached hereto as **Exhibit 17** is a true and correct copy of Defendant ARAG  
2 Insurance Company's Responses and Objections to Plaintiffs' Second Set of Interrogatories  
3 and Requests for Production, dated August 12, 2024.

4           20. Attached hereto as **Exhibit 18** is a true and correct copy of an email chain  
5 between me and David Faddoul, copying others, dated August 13 – 26, 2024. The exhibits to  
6 my August 26, 2024 email are omitted, as they are the discovery requests attached hereto as  
7 **Exhibits 12 and 13**. The link in my August 26, 2026 email is now deactivated, but permitted  
8 the McNaes' former counsel access to ARAG's document production.

9           21. Attached hereto as **Exhibit 19** is a true and correct copy of an email from me to  
10 the McNaes dated February 20, 2025, which includes a link to download a supplement to  
11 ARAG's prior document productions, and attaching two written discovery supplements.  
12 Because that link permits access to discovery materials marked CONFIDENTIAL under the  
13 stipulated protective order in this case, it has been redacted. (In abundance of caution, the file  
14 to which the link points is also protected by a randomly-generated password also shared with  
15 Mr. and Ms. McNae.)

16           22. Attached hereto as **Exhibit 20** is a true and correct copy of ARAG's February  
17 20, 2025 supplement to its initial disclosures, which was an attachment to the email attached  
18 hereto as **Exhibit 19**.

19           23. Attached hereto as **Exhibit 21** is a true and correct copy of ARAG's February  
20 20, 2025 supplemental responses to Plaintiffs' Second Set of Interrogatories and Requests for  
21 Production, which was an attachment to the email attached hereto as **Exhibit 19**.

22           24. Attached hereto as **Exhibit 22** is a true and correct copy of an email from me to  
23 the McNaes dated February 20, 2025, seeking to confer in good faith with the McNaes  
24

1 regarding ARAG's forthcoming motion for partial summary judgment based upon ERISA  
2 preemption.

3 25. Attached hereto as **Exhibit 23** is a true and correct copy of a Subpoena to Testify  
4 at a Deposition in a Civil Action served by the McNaes' prior counsel on Microsoft Corporation  
5 on or about July 18, 2024.

6 26. Attached hereto as **Exhibit 24** is a true and correct copy of a Subpoena to  
7 Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil  
8 Action served by the McNaes' prior counsel on Microsoft Corporation on or about July 18,  
9 2024.

10 27. Attached hereto as **Exhibit 25** is a true and correct copy of a declaration of  
11 service, dated July 19, 2024, for the deposition and document subpoenas attached hereto as  
12 **Exhibits 23 and 24.**

13 28. Attached hereto as **Exhibit 26** is a true and correct copy of an email chain  
14 between me and David Faddoul, copying others, dated August 13-14, 2024. Counsel for ARAG  
15 planned to depose the McNaes after receiving their written discovery responses and document  
16 production, and before the parties' scheduled November 13, 2024 mediation with Judge Kallas.  
17 That mediation had to be cancelled after the McNaes' prior counsel withdrew from this case.

18 29. The McNae's motion refers to an allegedly improper disclosure of information  
19 by ARAG to Fitzgerald's counsel in the Federal Case. Based on their description – including  
20 prior descriptions in Ms. McNae's email, I believe that they are referring to a December 14,  
21 2023 call from Fitzgerald's counsel to ARAG's customer support number, a recording of which  
22 ARAG has produced in this case in MP3 format under Bates number ARAG000071. I have  
23 listened to that recording, and as an offer of proof state that to my hearing the ARAG customer  
24 service representative did not disclose details of the ARAG insurance or any private matter

1 involving the McNaes. In any event, Fitzgerald's counsel indicates on the call that Ms. McNae  
2 had previously produced a copy of the ARAG insurance to Fitzgerald in the Federal Lawsuit.  
3 ARAG will submit the call recording for in-camera review upon the request of the Court.  
4

5 Dated this 20<sup>th</sup> day of February 2024, at Columbus, Ohio.  
6

7 /s/ Michael Mullaly  
8 Michael Mullaly  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**CERTIFICATE OF SERVICE**

Pursuant to the laws of the United States and the State of Washington, the undersigned certifies under penalty of perjury that on the 20<sup>th</sup> day of February, 2025, the document attached hereto was served upon the below counsel in the manner indicated:

*Pro Se Plaintiff*

William McNae  
504 11<sup>th</sup> Place  
Kirkland, WA 98033  
prose.wmcnae@gmail.com

- ☐ Via CM/ECF  
☒ Via electronic mail  
☐ Via U.S. Mail, postage prepaid  
☐ Via Facsimile  
☒ Via Courier  
☐ Via Overnight delivery

*Pro Se Plaintiff*

Ronda McNae  
504 11<sup>th</sup> Place  
Kirkland, WA 98033  
prose.rmcnae@gmail.com

- ☒ Via CM/ECF  
☒ Via electronic mail  
☐ Via U.S. Mail, postage prepaid  
☐ Via Facsimile  
☐ Via Courier  
☐ Via Overnight delivery

DATED this 20<sup>th</sup> day of February, 2025, in Kansas City, MO.

By s/Gwendolyn M. Wall

Gwendolyn M. Wall, paralegal